



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1203a, 1203b, and 1204

[Docket No: NASA-2012-0007]

RIN: 2700-AD89

NASA Security and Protective Services Enforcement

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct Final Rule.

SUMMARY: This direct final rule makes nonsubstantive changes to NASA regulations to clarify the procedures for establishing controlled/secure areas and to revise the definitions for these areas and the process for granting access to these areas, as well as denying or revoking access to such areas. Arrest powers and authority of NASA security force personnel are also updated and clarified to include the carrying of weapons and the use of such weapons should a circumstance require it. The revisions to these rules are part of NASA's retrospective plan under EO 13563 completed in August 2011. NASA's full plan can be accessed on the Agency's open Government Web site at <http://www.nasa.gov/open/>.

DATES: This direct final rule is effective on [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. Comments due on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the Federal Register.

ADDRESSES: Comments must be identified with RIN 2700-AD89 and may be sent to NASA via the Federal E-Rulemaking Portal: <http://www.regulations.gov>. Follow the online

instructions for submitting comments. Please note that NASA will post all comments on the Internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Charles Lombard, 202-358-0891, charles.e.lombard@nasa.gov.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

NASA has determined this rulemaking meets the criteria for a direct final rule because it involves clarifications, updating, and minor substantive changes to existing regulations. NASA does not anticipate this direct final rule will result in major changes to its security procedures. However, if NASA receives significant adverse comments, NASA will withdraw this final rule by publishing a note in the Federal Register to review the commented-on language. In determining whether a comment necessitates withdrawal of this final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

Background

- Part 1203a, NASA Security Areas, that describes the legal basis and other applicable NASA regulations related to NASA's security and law enforcement services implementation requirements, was promulgated March 28, 1972, [38 FR 8056]. Changes are being made to align this part with Homeland Security Presidential Directive (HSPD) 12, Policies for a Common Identification Standard for Federal Employees and Contractors, dated August 27, 2004. HSPD 12 establishes a mandatory, Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractors to increase Government efficiency, reduce identity fraud, and protect personal privacy.

- Part 1203b, Security Programs; Arrest Authority and Use of Force by NASA Security Force Personnel, that describes guidelines for the exercise of arrest authority, was promulgated February 11, 1992, [57 FR 4926]. Changes are being made to align this part with the guidelines described in Executive Order 12977, Interagency Security Committee (ISC) [60 FR 5441]. The ISC is responsible for establishing policies for the security in and protection of Federal facilities, ISC Standards, Physical Security Criteria for Federal Facilities, and ISC Facility Security Level Determinations for Federal Facilities.
- Subpart 10 of part 1204, Inspection of Persons and Personal Effects at NASA Installations or on NASA Property; Trespass or Unauthorized Introduction of Weapons or Dangerous Materials, that describes NASA's policy and minimum procedures concerning the inspection of persons and property in their possession while entering, on, or exiting NASA real property or installations, as well as proscribes unauthorized entry or the unauthorized introduction of weapons or other dangerous instruments or materials at any NASA facility, was promulgated August 3, 2000, [65 FR 47663]. Changes are being made to align this subpart with the guidelines outlined in HSPD 7, Critical Infrastructure Identification, dated December 17, 2003. HSPD 7 establishes a national policy for Federal departments and agencies to identify and prioritize critical infrastructure and to protect it from terrorist attacks.

While NASA has the following internal requirements pertaining to these rules, they are not duplicative, but are necessary to ensure that implementation of parts 1203a and 1203b and subpart 10 of part 1204 is consistent, uniform, and standardized:

- NPR 1600.1, NASA Security Program Procedural Requirements can be accessed at <http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=1600&s=1>,

- NPD 1600.2, NASA Security Policy, can be accessed at <http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPD&c=1600&s=2E>.
- NPR 1600.2, NASA Classified National Security Information (CNSI), can be accessed at <http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=1600&s=2>
- NPD 1600.3, Policy on Prevention of and Response to Workplace Violence, can be accessed at <http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPD&c=1600&s=3>.
- NPR 1600.3, Personnel Security, can be accessed at <http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=1600&s=3>.
- NPD 1600.4, National Security Programs, can be accessed at <http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPD&c=1600&s=4>.

Statutory Authority

Sections 1203 and 1204 are established under the National Aeronautics and Space Act (Space Act), in accordance with the National and Commercial Space Programs (Title 51 U.S.C.).

Sections 20132 and 20133 authorize the NASA Administrator to establish security rules and procedures to safeguard NASA's employees, facilities, and proprietary information and technologies. These rules serve to achieve compliance with the Agency's objectives in the protection of its people, property, and information.

Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improving Regulation and Regulation Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been designated as “not significant” under section 3(f) of Executive Order 12866.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 USC 601 et seq.) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency “certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities” (5 USC 603). This rule updates these sections of the CFR to align with Federal guidelines and does not have a significant economic impact on a substantial number of small entities.

Review Under the Paperwork Reduction Act

This direct final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Review Under Executive Order of 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (August 4, 1999) requires regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the Executive Order. Therefore, no Federalism assessment is required.

List of Subjects in 14 CFR Parts 1203a, 1203b, and 1204

Government property, NASA Security Areas, Use of Force, Arrest Authority, Use of Firearms.

Accordingly, under the authority of the National Aeronautics and Space Act, as amended, (51 U.S.C. 20113), NASA amends 14 CFR parts 1203a, 1203b and 1204 as follows:

PART 1203a—NASA SECURITY AREAS

1. The authority citation for part 1203a is revised to read as follows:

Authority: The National Aeronautics and Space Act of 1958, as amended, 51 U.S.C. 20101 et seq.

§1203a.100 [Amended]

2. Amend §1203a.100 as follows:

- a. In paragraph (a), remove the words “installations and component installations” wherever they appear and add in their place the words “Centers and Component Facilities”, add the word “/proprietary” after the word “classified”, and remove the words “or custody” after the word “possession”.

- b. In paragraph (b), remove the part number “1203a”.

3. Amend §1203a.101 as follows:

- a. In paragraph (a), add the word “/proprietary” after the word “classified”, remove the words “or custody” after the word “possession”, and remove the words “installation or component installation” and add in their place the words “Center or Component Facility”.

- b. Paragraphs (a)(1) through (3) are revised.

- c. In paragraph (b), remove the words “on an interim basis” after the word “established”.

The revisions read as follows:

§1203a.101 Definitions.

* * * * *

(a) * * *

(1) Controlled area. An area in which security measures are taken to safeguard and control access to property and hazardous materials or other sensitive material or to protect operations that are vital to the accomplishment of the mission assigned to a Center or Component Facility. The controlled area shall have a clearly defined perimeter, but permanent physical barriers are not required.

(2) Limited area. An area in which security measures are taken to safeguard or control access to classified material or unclassified property warranting special protection or property and hazardous materials or to protect operations that are vital to the accomplishment of the mission assigned to a Center or Component Facility. A Limited Area shall also have a clearly defined perimeter, but differs from a Controlled Area in that permanent physical barriers and access control devices, including walls and doors with locks or access devices, are emplaced to assist the occupants in keeping out unauthorized personnel. All facilities designated as NASA Critical Infrastructure or a key resource will be designated at a minimum as “Limited” areas.

(3) Exclusion area. An area that is a permanent facility dedicated solely to the safeguarding and use of Classified National Security Information. It is used when vaults are unsuitable or impractical and where entry to the area alone provides visible or audible access to classified material. To prevent unauthorized access to an exclusion area, visitors will be escorted or other internal restrictions implemented, as determined by the Center Security Office.

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4. Amend §1203a.102 as follows:

a. Paragraph (a)(1) introductory text is revised.

b. In paragraph (a)(1)(iii), remove the word “Government” and add in its place the words “NASA or NASA contractor”.

- c. In paragraph (a)(2), remove the words “Director of Security” and add in their place the words, “Assistant Administrator for Protective Services” and remove the word “will” and add in its place the word “shall”.
- d. In paragraph (a)(3)(i) introductory text, remove the word “As” and add in its place the word “At” and remove the words “Director of Security” and add in their place the words “Assistant Administrator for Protective Services”.
- e. In paragraph (a)(3)(i)(a), remove the words “NASA field or component installation, facility” and add in their place the words “NASA Center or Component Facility”.
- f. In paragraph (a)(3)(i)(b), remove the words “NASA field or component installation” and add in their place the words “NASA Center or Component Facility”.
- g. In paragraph (a)(3)(i)(c), remove the word “restricted” and add in its place the word “controlled” and remove the word “closed” and add in its place the word “Exclusion”.
- h. In paragraph (a)(3)(ii), remove the word “installation” and add in its place the word “Center” and remove the words “Security Division” and add in their place the words “Assistant Administrator for Protective Services”.
- i. In paragraph (b) introductory text, remove the word “As” and add in its place the word “At,” and place a comma “,” after the word “minimum”.
- j. In paragraph (b)(1), remove the words “Director of Security” and add in their place the words “Assistant Administrator for Protective Services.”
- k. In paragraph (b)(4), remove the words “installation or component installation” and add in their place the words “Center or Component Facility.”
- l. In paragraph (c), remove the words “Director of Security” and add in their place the words “Assistant Administrator for Protective Services.”

§1203a.102 Establishment, maintenance, and revocation of security areas.

(a) * * *

(1) Directors of NASA Centers, including Component Facilities and Technical and Service Support Centers, and the Executive Director for Headquarters Operations at NASA Headquarters may establish, maintain, and protect such areas designated as Controlled, Limited, or Exclusion, depending upon their assessment of the potential for unauthorized persons either to:

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§1203a.103 [Amended]

5. Amend §1203a.103 as follows:

a. In paragraph (a)(1), remove the word “Restricted” and add in its place the word “Controlled.”
In paragraph (a)(2), remove the words “involved or be the recipient of a satisfactorily completed national agency check if classified material or information is not involved” and add in their place the words “held, discussed, or disseminated on site or is the holder of a positive national agency check if classified material or information is not involved.”

In paragraph (a)(3), remove the word “Closed” and add in its place the word “Exclusion.”

In paragraph (b), remove the words “directors of NASA field and component installations, and the Director of Headquarters Administration for NASA Headquarters (including component installations)” and add in their place the words “Center Directors, including Component Facilities and Technical and Service Support Centers, and the Executive Director for Headquarters Operations, NASA Headquarters,” remove the words “continued presence” and add in their place the word “access” and remove the word “therein” wherever it appears.

§1203a.104 [Amended]

6. Amend §1203a.104 as follows:

In paragraph (a), remove the words “directors of NASA field and component installations (or their designees) and the Director of Headquarters Administration for NASA Headquarters (including component installations) or his designee” and add in their place the words “Center Directors, including Component Facilities and Technical and Service Support Centers, and the Executive Director for Headquarters, NASA Headquarters.”

a. In paragraph (b), remove the word “restricted” and add in its place the word “controlled” and remove the word “closed” and add in its place the word “exclusion.”

§1203a.105 [Amended]

7. Amend §1203a.105 by removing the words “field and component installations” and adding in their place the words “NASA Centers and Component Facilities,” removing the words “Security Division (Code DHZ)” and adding in their place the words “Assistant Administrator for Protective Services,” and removing the words “NASA Management Instruction 1410.10” and adding in their place the words “NASA Policy Directive 1400.2, Publishing NASA Documents in the Federal Register and Responding to Regulatory Actions.”

PART 1203b—SECURITY PROGRAMS: ARREST AUTHORITY AND USE OF FORCE BY NASA SECURITY POLICE PERSONNEL

8. The authority citation for part 1203b is revised to read as follows:

Authority: The National and Commercial Space Program (51 U.S.C.). Sections 20132 and 20133 et seq.

§1203b.100 [Amended]

9. Amend §1203b.100 by removing the citation “section 304(f) of the National Aeronautics and Space Act of 1958, as amended (42 USC 2456a)” and adding in its place the citation “51 U.S.C. National and Commercial Space Programs, sections 20133 and 20134,” and removing the word “arrest” before the word “authority” in the second occurrence.

§1203b.101 [Amended]

10. Amend §1203b.101 by removing the citation “42 U.S.C 2456a” and adding in its place the citation “51 U.S.C. 20134.”

§1203b.102 [Amended]

11. Amend §1203b.102 by removing the words “Federal Law Enforcement Training Center” and adding in their place the words “NASA Protective Services Training Academy”, removing the word “about” and adding in its place the word “concerning,” and removing the word “tiers” and adding in its place the word “levels”.

§1203b.103 [Amended]

12. Amend §1203b.103 as follows:
 - a. In paragraph (a)(1), remove the word “graduate” and add in its place add the words “have graduated”.
 - b. In paragraph (a)(2), remove the words “Associate Administrator for Management Systems and Facilities” and add in their place the words “Assistant Administrator for Protective Services”.
 - c. In paragraph (b)(2), remove the word “any” and add in its place the word “an” and add the words “Government, NASA, or a NASA contractor” after the word “States”.
 - d. In paragraph (c), remove the word “Installation” and add in its place the word “Center”.

13. Amend §1203b.104 as follows:

- a. Revise paragraph (a).
- b. In paragraph (b), remove the word “officer” and add in its place the word “personnel.”
- c. Remove paragraph (c).
- d. Redesignate paragraph (d) as paragraph (c) and remove the word “that” after the word “ensure”.

The revision reads as follows:

§1203b.104 Exercise of arrest authority—general guidelines.

- (a) In making an arrest, the security force personnel should announce their authority and that the person is under arrest prior to taking the person into custody. If the circumstances are such that making such an announcement would be useless or dangerous to the security force personnel or others, the security force personnel may dispense with these announcements, but must subsequently identify themselves and their arrest authority to the arrested person(s) as soon as reasonably possible.

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§1203b.105 [Amended]

- 14. Amend §1203b.105 by removing the first occurrence of the word “officer” in and adding in its place the word “personnel”.

- 15. Section 1203b.106 is revised to read as follows:

§1203b.106 Use of deadly force.

NASA security force personnel may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.

- (a) Deadly force may not be used solely to prevent the escape of a fleeing suspect.

- (b) Firearms may not be fired solely to disable moving vehicles.
- (c) If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.
- (d) Warning shots are not permitted outside of the prison context.
- (e) Officers will be trained in alternative methods and tactics for handling resisting subjects which must be used when the use of deadly force is not authorized by this policy.

§1203b.107 [Amended]

16. Amend §1203b.107 as follows:

- a. In paragraph (a)(1), add the words “or desist” after the word “halt”.
- b. In paragraph (c) introductory text, remove the word “officer” and add in its place the word “personnel”.
- c. In paragraph (c)(1), remove the word “Installation” and add in its place the word “Center” and remove the words “Security Office” and add in their place the words “Assistant Administrator for Protective Services”.
- d. In paragraph (c)(2), remove the word “Installation” wherever it appears and add in its place the word “Center” and remove the words “Associate Administrator for Management Systems and Facilities” and add in their place the words “Assistant Administrator for Protective Services”.
- e. In paragraph (c)(3), remove the word “Installation” and add in its place the word “Center,” and remove the words “Associate Administrator for Management Systems and Facilities” in the first occurrence and add in their place the words “Executive Director for Headquarters

Operations” and in the second occurrence add in their place the words “Assistant Administrator for Protective Services”.

- f. In paragraph (c)(4), remove the word “Installation” and add in its place the word “Center” and remove the words “Associate Administrator for Management Systems and Facilities” and add in their place the words “Assistant Administrator for Protective Services”.

§1203b.108 [Amended]

17. Amend §1203b.108 as follows:

- a. In paragraph (b), add the acronym “NASA” before the word “Headquarters” and remove the words “Field Installations” and add in their place the words “NASA Centers”.
- b. In paragraph (c) introductory text, remove the words “Associate Administrator for Management Systems and Facilities” and add in their place the words “Assistant Administrator for Protective Services”.
- c. In paragraph (c)(2), add the word “requisite” after the word “Demonstrate”.
- d. In paragraph (d) introductory text, remove the words “Associate Administrator for Management Systems and Facilities” and add in their place the words “Assistant Administrator for Protective Services.”
- e. In paragraph (d)(1), remove the word “Provide” and add in its place the word “Ensure,” remove the word “ensure” and add in its place the word “maintain,” remove the word “updated” and add in its place the word “current,” and remove the words “as to the use” after the word “knowledge”.
- f. In paragraph (d)(2), remove the word “officers” and add in its place the word “personnel”.
- g. In paragraph (e), remove the words “Associate Administrator for Management Systems and Facilities” and add in their place the words “Executive Director for Headquarters Operations,”

remove the word “Installation” and add in its place the word “Center,” remove the words “management instructions” and add in their place the words “policies and procedural requirements,” remove the words “Headquarters/Installation” and add in their place the words “NASA Headquarters or NASA Center.”

§1203b.109 [Amended]

18. Amend §1203b.109 by removing the words “do not” after the word “to”.

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 10—Inspection of Persons and Personal Effects at NASA Installations or on NASA Property; Trespass or Unauthorized Introduction of Weapons or Dangerous Materials

19. The authority citation for part 1204, subpart 10, is revised to read as follows:

Authority: The National and Commercial Space Program (51 U.S.C.). Sections 20132 and 20133 et seq.

§1204.1000 [Amended]

20. Amend §1204.1000 by removing the word “minimum” and adding in its place the word “baseline,” removing the word, “installations” and adding in its place the word “facilities,” adding the acronym “NASA” before the word “Centers.” and removing the second occurrence of the word “installation” and adding in its place the word “facility”.

§1204.1001 [Amended]

21. Amend §1204.1001 as follows:

- a. In paragraph (a), remove the word, “installations” and add in its place the word “facilities,” add the acronym “NASA” in front of the word “Centers,” remove the word “from,” and remove the word “installation” at the second occurrence and add in its place the word “facility”.

- b. In paragraph (b), remove the words “It is determined that,” capitalize the “T” in the word “this” and remove the word “installations” wherever it appears and add in its place the word “facilities”.

§1204.1002 [Amended]

- 22. Amend §1204.1002 by removing the words “Associate Administrator” and adding in their place the words “Executive Director”.

§1204.1003 [Amended]

- 23. Amend §1204.1003 as follows:

- a. In paragraph (a) introductory text, remove the word, “installations” and add in its place the word “facilities” and add the acronym “NASA” in front of the word “Centers”.
- b. In paragraph (a)(1), capitalize the entire paragraph and remove the word “installation” and add in its place the word “FACILITY”.
- c. In paragraph (a)(2), capitalize the entire paragraph, remove the colon after the word “PROHIBITED,” add a period after the acronym “NASA”, and add the words “UNLESS AUTHORIZED BY NASA” after the word “property.”
- d. In paragraph (b), remove the word “installation’s” and add in its place the word “facility’s” and remove the words “Director, Security Management Office” and add in their place the words “Assistant Administrator for Protective Services”.
- e. In paragraph (c), remove the word “admission” and add in its place the word “entry” and remove the word “installation” and add in its place the word “facility”.
- f. In paragraph (d), remove with word “installation” wherever it appears and add in its place the word “facility” and remove the word “admission” and add in its place the word “entry”.
- g. In paragraph (e), remove the word “installation” and add in its place the word “facility”.

§1204.1004 [Amended]

24. Amend §1204.1004 by removing the word “installation” and adding in its place the word “facility”.

25. Amend §1204.1005 as follows:

- a. Revise paragraph (a).
- b. In paragraph (b), remove the words “Paragraph (a) of this section” and add in their place the words “§1204.1003, paragraph (a)(2)”.
- c. In paragraph (b)(2), remove the word “installation” wherever it appears and add in its place the word “facility”.

The revision reads as follows:

§ 1204.1005 Unauthorized introduction of firearms or weapons, explosives, or other dangerous materials.

(a) Refer to the notice in §1204.1003, paragraph (a)(2), for a description of the consequences for unauthorized introduction of firearms or weapons, explosives, or other dangerous materials.

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§ 1204.1006 [Amended]

26. Amend § 1204.1006 by removing the words “Please take notice that” and capitalizing the letter “A” in the word “anyone”.

Charles F. Bolden, Jr.
Administrator.

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